

charge any additional fee required for the extension, and credit any overpayment, to Deposit Account 06-1205.

II. This is in response to the Office Action dated December 23, 2002, the period for reply having been extended by the above petition and payment of the extension fee. Please consider the following remarks.

Remarks

The claims are 1-6, with claims 1 and 4 being independent.

Reconsideration of the present claims is respectfully requested.

Claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Stray-Gundersen (U.S. Patent No. 5,114,723) in view of Schade (U.S. Patent No. 3,934,047) in further view of Jenner (U.S. Patent No. 4,927,646). Claims 1-6 stand rejected under 35 U.S.C. §103(a) as being unpatentable over page 2, lines 16-31 of Applicants' specification in view of Jenner. Applicants respectfully traverse these rejections.

On July 17, 2002, Applicants submitted the declaration of William Mutilangi which evidenced the synergistic effect of the claimed metal salt combination in a beverage sweetened with sucralose and acesulfame-K. In short, it was shown that more pronounced and better effects on overall sweetness intensity, aftertaste duration, cola flavor strength and mouthfeel are attained using a combination of calcium phosphate, calcium sulfate and potassium sulfate in a low-calorie beverage sweetened with sucralose/acesulfame-K than when using any of the salts alone in such a beverage.

In response, the Examiner has indicated that the declaration is not persuasive because, while it shows synergistic results as compared to the individual salts, it does not overcome either primary reference. The Examiner now questions the effect of the presence of sucralose in the tested beverages, while noting that the specification indicates that these salts can be used in beverages sweetened with acesulfame-K. In addition, the Examiner now questions whether the three salt blend presently claimed provides synergistic results when compared to the two salt blend, i.e., calcium sulfate and calcium phosphate, in Stray-Gunderson.

In answer to the Examiner's first question, sucralose is employed as part of an artificial sweetener blend in the beverage compositions of the present invention. The *nothing creates* beneficial effects of blending artificial sweeteners are well-known The blend of sucralose and acesulfame-K is employed simply because it provides a satisfactory sweetness for beverages. The sweetener blend is claimed because the salt blend of the present invention is what has been found to be the best salt blend for enhancing the overall sweetness intensity, aftertaste duration, cola flavor strength and mouthfeel in a beverage sweetened with the particular artificial sweetener blend of sucralose and acesulfame-K. If the sweetener blend were different or if only one sweetener were used, then a different salt blend would most likely be required to enhance the flavor profile.

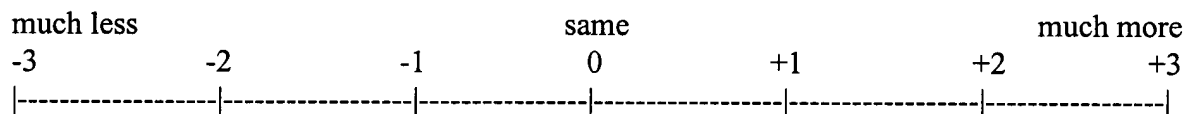
In answer to the Examiner's second question, the presently claimed three salt blend does provide synergistic results when compared to the two salt blend, i.e., calcium sulfate and calcium phosphate, in Stray-Gunderson. Accordingly, Applicants herewith submit a second declaration of William Mutilangi regarding the synergistic effect of the claimed three metal salt combination, as compared with a two salt combination of

calcium sulfate and calcium phosphate. The comparable effects on sweetness intensity, aftertaste duration, cola flavor strength and mouthfeel are set forth in Table 1 below and explained in detail in Dr. Mutilangi's declaration.

Table 1.

	calcium sulfate and calcium phosphate	calcium sulfate, calcium phosphate and potassium sulfate
sweetness intensity	0	+2
aftertaste duration	-2	-2
cola flavor strength	-1.5	0
mouthfeel	+1	+1

*the following scale was used:



It is clear that the three salt blend compensates for the decrease in cola flavor strength seen with the use of only the two calcium salts, despite the fact that no difference in cola flavor strength was seen when using potassium sulfate alone (see, first and second declarations of Dr. William Mutilangi). In addition, the sweetness intensity effect achieved by the three salt blend is +2 as compared with the use of only the two calcium salts, despite the fact that a difference of only +1 was seen when using potassium sulfate alone (see, first and second declarations of Dr. William Mutilangi).

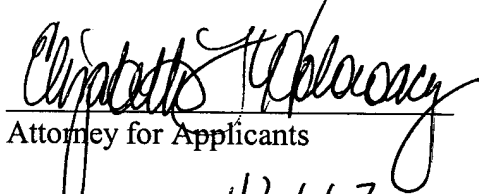
In sum, it remains Applicants' current position that the presently claimed synergistic blend of metal salts, as well as the particular amount in which the blend is present, is not disclosed or suggested by any of the presently applied references. The

submission of the §1.132 declarations and the present response clearly place the present application in allowable form. Therefore, withdrawal of the §103 rejections, favorable reconsideration and passage to issue of the present case is respectfully requested.

If, upon consideration of the declaration and response, the Examiner believes there are any outstanding issues, it is respectfully requested that the Examiner contact the undersigned attorney in an effort to expeditiously resolve such issues.

Applicants' undersigned attorney may be reached in our New York office by telephone at (212) 218-2100. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,


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